



# CVCWA

## Central Valley Clean Water Association

*Representing Over Fifty Wastewater Agencies*

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June 13, 2013

***Via Electronically Only***

Ms. Dania Jimmerson  
Water Resources Control Engineer  
Regional Water Quality Control Board,  
Central Valley Region  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670  
[djimmerson@waterboards.ca.gov](mailto:djimmerson@waterboards.ca.gov)

RE: Comments on the Tentative Waste Discharge Requirements Order R5-2013-XXXX, City of Brentwood Wastewater Treatment Plant, Contra Costa County

Dear Ms. Jimmerson:

The Central Valley Clean Water Association (“CVCWA”) appreciates the opportunity to submit comments on the tentative Waste Discharge Requirements for the City of Brentwood Wastewater Treatment Plant (“Tentative Order”). CVCWA is a non-profit association of public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. We approach these matters with the perspective of balancing environmental and economic interests consistent with state and federal law. In this spirit, we provide the following comments on the land discharge specifications for emergency storage ponds, the receiving water limitations for pesticides, as well as the language used in the tentative Monitoring and Reporting Program regarding reporting and detection limits.

## **I. Land Discharge Specification to Emergency Storage Ponds**

The Tentative Order includes a Discharge Prohibition for intermittent/temporary discharges to the Emergency Storage Ponds that states, “[d]ischarge of waste classified as ‘hazardous’ as defined in section 2521(a) of Title 23, California Code of Regulations (CCR), or ‘designated,’ as defined in section 13173 of the [California Water Code], to the Emergency Storage Ponds is prohibited.”<sup>1</sup> The definition of designated waste in the Water Code includes:

[n]onhazardous waste that consists of, or contains pollutants that, under ambient environmental conditions at a waste management unit, could be released in concentrations exceeding applicable water quality objectives or that could reasonably be expected to affect beneficial uses of the waters of the state as contained in the appropriate state water quality control plan.<sup>2</sup>

In other words, the Tentative Order prohibits the discharge of waste to the emergency storage ponds if such waste under ambient environmental conditions could cause groundwater to exceed applicable water quality objectives. Such a prohibition is inappropriate as it defeats the purpose of the proposed compliance schedule for chloride and fails to consider that the City of Brentwood is in the process of lining emergency storage pond 006 and is decommissioning pond 008. For example, with respect to chloride, the compliance schedule describes the multiple actions that will be taken by the City of Brentwood to meet the final effluent limitation for chloride imposed by the Tentative Order, including implementing a pollution prevention plan, and conducting a Compliance Alternative Investigation. The general prohibition of “designated” waste to the emergency storage ponds ignores these time- and resource-intensive actions. Further, by including this provision, the City of Brentwood could be held liable for the violation of the “designated” waste discharge prohibition despite the many steps the City has taken to come into compliance with the final effluent limitation for chloride. Creating additional liability for publicly owned treatment works is not good public policy. Accordingly, CVCWA recommends that the Tentative Order be revised to eliminate the reference to designated waste in Discharge Specification IV.B.1.

## **II. Receiving Water Limitations for Pesticides**

The Tentative Order includes receiving water limitations for pesticides. Specifically, in section V.A.9, the Tentative Order states that the discharge shall not cause the following in Marsh Creek: “[p]esticides to be present in concentration in excess of the maximum contaminant levels set forth in CCR, Title 22, division 4, chapter 15,” or “Thiobencarb to be present in excess of 1.0 µg/L.”<sup>3</sup> Under the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (“Basin Plan”), these receiving water limitations apply only to

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<sup>1</sup> Tentative Order at p. 14.

<sup>2</sup> Wat. Code, § 13173(b).

<sup>3</sup> Tentative Order at p. 16.

waters designated for use as domestic or municipal supply (“MUN”).<sup>4</sup> The facility discharges into Marsh Creek, which is not designated for the MUN beneficial use.<sup>5</sup> These limitations are inapplicable to Marsh Creek and should be removed.

To ensure that the Tentative Order is consistent with the Basin Plan, CVCWA requests that the Regional Board strike paragraphs (f) and (g) from the receiving water limitations for pesticides in section V.A.9 of the Tentative Order.

### **III. Monitoring and Reporting Program**

The Monitoring and Reporting Program (“MRP”) attached to the Tentative Order includes provisions that are inconsistent with the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (“SIP”). For instance, in footnote 5 of Table E-3, the MRP states that if the lowest minimum level (“ML”) published in Appendix 4 of the SIP is not below the effluent limitation, “the detection limit shall be the lowest ML.” This provision is contrary to the language in the SIP. Rather, under section 2.4.2 of the SIP, if no ML value is below the effluent limitation, the SIP provides that the *reporting limit* (“RL”) shall be the lowest ML.<sup>6</sup> This distinction between the RL and a method detection limit (“MDL”) is essential for reporting data under the protocols in the SIP. Samples that are greater than or equal to the RL must be reported as measured, whereas samples that are less than a laboratory’s MDL must be reported as not detected.<sup>7</sup>

Identification of the appropriate RL is also relevant to compliance determinations. Under section 2.4.5 of the SIP, concentrations of a priority pollutant must be greater than the effluent limitation and greater or equal to the RL before a discharger is determined to be out of compliance.<sup>8</sup> Substituting “detection limit” for “reporting limit” frustrates the carefully prescribed procedures for reporting data and determining compliance under the SIP.

Further, the MRP in the Tentative Order assumes that the Regional Board may set reporting limits less than the MLs listed in Appendix 4 of the SIP under any condition. However, section 2.4.3 of the SIP provides that the Regional Board may deviate from the MLs listed in Appendix 4 only under certain circumstances, including when: (1) the constituent is not included in Appendix 4; (2) the permittee agrees to use a test method that is more sensitive than those specified in the federal regulations; (3) the permittee agrees to use an RL that is lower than the MLs in Appendix 4; (4) the permittee demonstrates that the calibration standard matrix is sufficiently different from that used to establish the ML in Appendix 4 and proposes an

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<sup>4</sup> Basin Plan at p. III-6.00.

<sup>5</sup> Basin Plan at p. II-6.00, fn. 9; Tentative Order at p. F-7.

<sup>6</sup> Tentative Order at p. E-21.

<sup>7</sup> SIP at p. 23 (emphasis added).

<sup>8</sup> SIP at p. 26.

appropriate ML for their matrix; and (5) the permittee uses a method whose quantification practices are not consistent with the definition of an ML.<sup>9</sup> The language in the Tentative Order should be revised to make clear that a reporting limit may only be established at a value less than the MLs listed in Appendix 4 of the SIP, if the value is determined in accordance with section 2.4.3 of the SIP.

To ensure that the MRP in the Tentative Order is consistent with the monitoring and reporting requirements in the SIP, and to eliminate any confusion regarding the SIP's application, CVCWA requests that you revise footnote 5 to Table E-3 as follows:

<sup>5</sup>For priority pollutant constituents with effluent limitations, detection limits shall be below the effluent limitation. If the lowest minimum level (ML) published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Implementation Plan or SIP) is not below the effluent limitation, the ~~detection limit~~ reporting limit shall be the lowest ML, and its associated analytical method, listed in Appendix 4, or a value determined in accordance with Section 2.4.3 of the SIP. For priority pollutant constituents without effluent limitations, the ~~detection~~ reporting limits shall be equal to ~~or less than~~ the lowest ML published in Appendix 4 of the SIP, or a value determined in accordance with Section 2.4.3 of the SIP.

We appreciate your consideration of these comments and request that you revise the Tentative Order as suggested above. If you have any questions or if CVCWA can be of further assistance, please contact me at (530) 268-1338 or [eoofficer@cvcwa.org](mailto:eoofficer@cvcwa.org).

Sincerely,



Debbie Webster,  
Executive Officer

cc (*via email only*): Pamela Creedon, Central Valley Regional Water Quality Control Board

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<sup>9</sup> SIP at p. 24.